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DEPARTMENT OF COMMERCE

International Trade Administration

[A-560-832]

Polyethylene Terephthalate Resin from Indonesia: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of polyethylene terephthalate (PET) resin from Indonesia is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Caitlin Monks or Gene Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2670 or (202) 482-3586, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 24, 2018 Commerce published in the *Federal Register* its preliminary affirmative determination of critical circumstances, in part.¹ On May 4, 2018, Commerce published in the *Federal Register* the preliminary affirmative determination of sales at LTFV in

¹ See *Antidumping Duty Investigations on Polyethylene Terephthalate Resin from Indonesia, the Republic of Korea, and Taiwan; Preliminary Determination of Critical Circumstances*, 83 FR 17791 (April 24, 2018) (*Preliminary Critical Circumstances Determination*).

the antidumping duty (AD) investigation of PET resin from Indonesia.² Commerce invited comments from interested parties on the *Preliminary Determination*.³ The petitioners⁴ and Indorama⁵ filed case and rebuttal briefs.⁶ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the Issues and Decision Memorandum.⁷ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

² See *Polyethylene Terephthalate Resin from Brazil: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 19699 (May 4, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

³ *Id.* at 19700; see also Memorandum, "Case Brief Deadline Extension for the Antidumping Duty Investigation of Polyethylene Terephthalate Resin from Brazil," dated July 10, 2018.

⁴ DAK Americas, M&G Polymers USA, LLC, and Nan Ya Plastics Corporation, America (collectively, the petitioners).

⁵ In the *Preliminary Determination*, in accordance with section 771(33)(F) of the Act, we found the following companies affiliated: PT. Indo-Rama Synthetics Tbk (Indorama Synthetics), Indorama Ventures Alphapet Holdings, Inc. (Alphapet), Indorama Ventures Indonesia (Ventures Indonesia), PT. Indorama Polypet Indonesia (Polypet), and Indorama Polymers Public Company Ltd. (Polymers). Further, we collapsed, pursuant to 19 CFR 351.401(f), the following three Indonesian producers into a single entity: Indorama Synthetics, Ventures Indonesia, and Polypet, collectively referred to as Indorama Producers throughout this final determination. See PDM at 6-11. We have made no changes to these findings in our final determination. We received responses from the Indorama Producers, and their U.S. affiliate, Alphapet, which we refer to collectively as Indorama throughout this final determination.

⁶ See Petitioners' Case Brief, "Petitioners' Case Brief," dated August 15, 2018 (Petitioners' Case Brief); see also Indorama's Case Brief, "Polyethylene Terephthalate Resin ('PET Resin') from Indonesia: Administrative Case Brief," dated August 16, 2018 (Indorama's Case Brief); see also Petitioners' Rebuttal Brief, "Petitioners' Rebuttal Brief," dated August 22, 2018 (Petitioners' Rebuttal Brief); see also Indorama's Revised Rebuttal Brief, "Polyethylene Terephthalate Resin ('PET Resin') from Indonesia: Rebuttal Brief," dated August 24, 2018 (Indorama's Rebuttal Brief).

⁷ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Polyethylene Terephthalate Resin from Indonesia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Scope of the Investigation

The product covered by this investigation is polyethylene terephthalate resin from Indonesia. Commerce did not receive any scope comments subsequent to the *Preliminary Determination* and, therefore, the scope has not been revised since the *Preliminary Determination*. For a complete description of the scope of this investigation, see Appendix I.

Period of Investigation

The POI is July 1, 2016, through June 30, 2017.

Verification

As provided in section 782(i) of the Act, we conducted the cost and sales verifications in Indonesia and the United States between May 4, 2018, and June 22, 2018. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.

Final Affirmative Determination of Critical Circumstances, in Part

For this final determination, as explained in detail in the accompanying Issues and Decision Memorandum, we determine that critical circumstances exist for the Indorama Producers, but do not exist for “all other” producers or exporters not individually examined.⁸

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix II.

⁸ See Issues and Decision Memorandum at IV.

Use of Facts Otherwise Available and Adverse Inferences

For purposes of this final determination, Commerce relied on facts otherwise available with an adverse inference when calculating the margin for the Indorama Producers (a collapsed entity comprised of three producers),⁹ pursuant to sections 776(a)(1) and (2)(A)(C)(D) and 776(b) of the Act. For further information regarding the use of facts available and adverse inferences, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we are now relying on facts available in determining a dumping margin for the Indorama Producers.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. However, section 735(c)(5)(B) of the Act provides that Commerce may apply “any reasonable method” to establish the all-others rate if the margins are determined entirely under section 776.

In the *Preliminary Determination*, because we calculated an individual estimated weighted-average dumping margin for the Indorama Producers, we assigned this margin to all other producer and exporters, pursuant to section 735(c)(5)(A) of the Act. However, for this final determination, we have based the Indorama Producers’ rate entirely on facts available; accordingly, we have reconsidered the estimated rate assigned to all others. Because we have no calculated rates, we have determined that a reasonable method for assigning a margin to all other

⁹ *See supra* n.4.

exporters and producers not individually examined is to average the four rates from the Petition, in accordance with section 735(c)(5)(B) of the Act.¹⁰ The estimated dumping margins from the petition for the price-to-price comparisons are 8.49 and 12.38 percent, and the estimated margins for the U.S. price-to-CV comparisons are 48.07 and 53.50 percent¹¹; therefore, the simple average of these rates is 30.61 percent. Accordingly, the all-others rate in this investigation is 30.61 percent.

Final Determination Margins

Commerce determines that the following estimated weighted-average dumping margins exist:

¹⁰ See Petitioners' Letter, "Polyethylene Terephthalate ("PET") Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan – Petition for the Imposition of Antidumping Duties," dated September 26, 2017, and Petitioners' Letter, "Polyethylene Terephthalate ("PET") Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan – Petitioners' Amendment to Volume III Relating to Indonesia Antidumping Duties," dated October 3, 2017 (Petition).

¹¹ See Petition at Volume III at Exhibit AD-ID-S4; *see also* Commerce's Notice, "Enforcement and compliance Office of AD/CVD Operations Antidumping Duty Investigation Initiation Checklist," dated October 16, 2017 (Initiation Checklist).

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
PT. Indo-Rama Synthetics Tbk. / PT. Indorama Polypet Indonesia / Indorama Ventures Indonesia ¹²	53.50
All-Others	30.61

Disclosure

We will disclose to interested parties the calculations performed in this final determination within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, for this final determination, Commerce will instruct U.S. Customs and Border Protection (CBP) to begin the suspension of liquidation of all entries of PET resin, as described in the Appendix I to this notice, produced or exported by the Indorama Producers, which were entered, or withdrawn from warehouse, for consumption on or after February 3, 2018 (90 days prior to the date of publication of the *Preliminary Determination*), because we find that critical circumstances exist with regard to imports produced or exported by the Indorama Producers.

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. CBP to continue to suspend liquidation of all appropriate entries of PET resin from Indonesia, as described in Appendix I of this notice, produced or exported by all other producers or exporters,

¹² Collectively referred to as the Indorama Producers.

which were entered, or withdrawn from warehouse, for consumption on or after May 4, 2018, the date of publication of the *Preliminary Determination*. Commerce will instruct U.S. CBP to terminate the suspension of liquidation for shipments from Polymers and all other producers and exporters of subject merchandise that were entered, or withdrawn from warehouse, for consumption before May 4, 2018, because we find that critical circumstances do not exist with regard to imports produced or exported by Polymers and all other producers and exporters. All such entries shall be liquidated without regard to antidumping duties (*i.e.*, all cash deposits shall be returned).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2)(B) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET resin from Brazil no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties, subject to administrative protective order (APO), of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: September 17, 2018.

Gary Taverman,

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations

performing the non-exclusive functions and duties of the

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 70, but not more than 88, milliliters per gram (0.70 to 0.88 deciliters per gram). The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The scope excludes PET-glycol resin, also referred to as PETG. PET-glycol resins are manufactured by replacing a portion of the raw material input monoethylene glycol (MEG) with one of five glycol modifiers: cyclohexanedimethanol (CHDM), diethylene glycol (DEG), neopentyl glycol (NPG), isosorbide, or spiro glycol. Specifically, excluded PET-glycol resins must contain a minimum of 10 percent, by weight, of CHDM, DEG, NPG, isosorbide or spiro glycol, or some combination of these glycol modifiers. Unlike subject PET resin, PET-glycol resins are amorphous resins that are not solid-stated and cannot be crystallized or recycled.

The merchandise subject to this investigation is properly classified under subheadings 3907.61.0000 and 3907.69.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. SUMMARY
- II. BACKGROUND
- III. SCOPE OF THE INVESTIGATION
- IV. FINAL AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART
- V. CHANGES SINCE THE PRELIMINARY DETERMINATION
- VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES
- VII. DISCUSSION OF THE ISSUES
 - Comment 1: Whether to Apply Adverse Facts Available to Indorama
 - Comment 2: Whether Commerce Made Clerical Errors in its Preliminary Determination
- VIII. RECOMMENDATION

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